

Strengthening the Nation's Water Infrastructure: The Army Corps of Engineers' Planning Priorities

**Testimony of Steve Ellis
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Before
Subcommittee on Energy and Resources
House Committee on Government Reform**

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Good Afternoon, Chairman Issa and members of the Subcommittee. I am Steve Ellis, Vice President of Programs at Taxpayers for Common Sense (TCS), a national, non-partisan budget watchdog. Thank you for holding this hearing on the U.S. Army Corps of Engineers planning process and project priorities – or in our view, the lack thereof.

Over the last several years, there have been numerous studies of the shortcomings in Corps planning processes, project design, and economic analysis. In a much more direct way, Katrina exposed many of these same weaknesses of the Corps' civil works program. However, what has been most staggering is that Congress's response has been to do nothing. With all this evidence and no action, one can only conclude that Congress likes the Corps the way it is. And why not? The lack of strong rules, easily manipulated economics, and the priority-less environment lends itself to pork barrel spending and political machinations.

You could say that Congress and the Corps grew up together. In fact, the Corps claims to be older than the Republic, tracing its origins back to the fortifications at Bunker Hill in 1775. In the 1820s, the Corps was given the mission of making the nation's waterways navigable. That was the beginning of a match made in hog heaven. In 1836, the Ways and Means Committee had already found 25 wasteful Corps projects. In 1900, Theodore Burton, a Republican Congressman from Ohio decried the pork barrel politics of the Corps civil works program and established the Board of Engineers for Rivers and Harbors to review and ensure projects were meritorious; the board was disbanded in the early 1990s to accelerate the project delivery.

As you can see, the Corps's symbiotic relationship with Congress is not a new dynamic, and it often left the President on the outside looking in. When signing the Rivers and Harbors Act¹ of 1950, President Truman said, "certain projects authorized in this act ... do not justify the expenditure of Federal funds."² Harold Ickes, Interior Secretary for both Truman and FDR, went further stating, "It is to be doubted whether a federal agency in the history of this country has so wantonly wasted money on worthless projects as has the Corps of Engineers.... No more lawless or irresponsible federal group than the Corps

¹ The Rivers and Harbors Acts were the precursor to today's Water Resources Development Act – an omnibus bill of many Corps project authorizations.

² President's Special Message to the Congress Following the Signing of the Rivers and harbors Bill. May 22, 1950.

of Engineers has ever attempted to operate in the United States.”³ When he vetoed the Rivers and Harbors Act of 1958, President Eisenhower wrote “I cannot overstate my opposition to this kind of waste of public funds,” on projects that “have no economic justification.”⁴ Presidents Carter and Reagan effectively tag-teamed Congress and the Corps, denying any new water project bills for more than a decade.

Simply put, Congress and the Corps have become partners in wasting U.S. taxpayer’s money. How is this possible, how has this Executive Branch agency become more like an adjunct of the Legislative Branch? Well, the Corps knows who butters their bread. The agency’s roughly \$5 billion budget is almost entirely made up of earmarks for projects. By courting members of Congress, the Corps help ensure that their budget level is maintained. For example, in the President’s FY2007 budget proposal, 523 projects that were funded by Congress in FY2006 were zeroed out.⁵ The Corps takes care of Congress, and Congress takes care of the Corps. As Rep. Jack Kingston (R-GA) put it, “The way I see it, the Corps is an agency that likes projects...Give them a dollar and they will push it anyway you want.”⁶

One recent example of a member of Congress telling the Corps where to push the funding was former Rep. Sonny Callahan (R-AL), then-Chairman of the Energy and Water Appropriations Committee. Rep. Callahan indicated his interest in getting the Dog River in Mobile, Alabama dredged because it had silted in too much for even recreational traffic. Recreational dredging is not a Corps mission, but the project was redefined as environmental restoration to move it through. Why? Well here’s the commentary from an internal Corps memo, “The project is Congressman Callahan’s personal initiative. The yellow dot on the photo below shows Mr. Callahan’s Mobile residence in relation to the Dog River.”⁷ Well where is that yellow dot? Right next to the Dog River.

As I mentioned, the Corps budget is project driven. Generally, these projects are devised at the District level. Each District needs to generate projects to ensure that staff and operations are adequately funded. Further, the cost-sharing provisions – where the local sponsor pays half of the feasibility study costs and a share of the construction costs – have created what the Army Inspector General (IG) called the “customer service model” whereby the Corps sees the project sponsor as the sole customer in a project.⁸ In reality, the taxpayer is the majority investor in most Corps projects, but the Corps treats the taxpayer as a silent partner, and in a bizarre way, the local sponsor controls whether the project gets built. If the feasibility study doesn’t recommend the project the local sponsor wants, then the project won’t get built. So, Corps feasibility studies generally side with the local sponsor over what is in the best economic interest for the nation.

³ Bill Lambrecht. *Washington Monthly*. “The new water wars: on the Missouri and rivers further east, dying industries control the flow and leave emerging businesses high and dry.” May 2005.

⁴ President’s Message to Congress Vetoing Authorizing Appropriations for Rivers, Harbors, and Flood Control Projects. April 15, 1958.

⁵ Summary of the “FY 2006 Appropriations Not in the President’s FY 2007 Budget” table in the Fiscal Year 2007 Civil Works Budget for the U.S. Army Corps of Engineers. p 105-121.

⁶ Michael Grunwald. *Washington Post*. “In Everglades, A Chance For Redemption.” September 14, 2000. p A1.

⁷ Mobile District, U.S. Army Corps of Engineers. Dog River Pilot Project, Alabama Issue Paper. April 12, 2001.

⁸ Executive Summary of the U.S. Army Inspector General Agency Report of Investigation (Case 00-019)

After reviewing the Upper Mississippi River navigation project, the Army IG concluded that for the Corps, the “[t]he budget process was deemed a first half irrelevancy. The measure of effectiveness of the Divisions and Districts was the amount of funds actually appropriated by Congress.”⁹ Further, the IG found that there were “strong indications that institutional bias might extend throughout the Corps. Advocacy, growth, the customer service model, and the Corps’ reliance on external funding combined to create an atmosphere where objectivity in its analyses was place in jeopardy. These influences created a tension with the honest broker role inherent in reconnaissance and feasibility studies.”¹⁰

The Corps and navigation boosters in Congress have spent more than a decade trying to get a multi-billion dollar lock construction project on the Upper Mississippi River across the starting line. Economics, reality, and the criticism of the scientific and government watchdogs at the National Academy of Sciences, the Army Inspector General, and the Congressional Research Service have served as only minor impediments. In 2000, the former senior economist for the study blew the whistle on the Corps for cooking the economic books. The IG agreed.¹¹ But the Corps’ forced reanalysis only delayed the pre-ordained conclusion. Last year the Corps recommended seven new navigation locks for the Upper Mississippi River System.¹² The House and the Senate Environment and Public Works Committee responded by passing an authorization for a \$1.6 billion project to build the new locks in the Water Resources Development Act last year.¹³ The fact that Assistant Secretary of the Army (Civil Works) and independent entities point out that the Corps economic grounding for the project is specious has not stopped the Congressional boosters or the Corps from pushing the project.¹⁴

The Upper Mississippi Navigation project is a classic example of problems with the Corps. But it is by far not the only lens to observe Corps shortcomings. Dredging projects on the Delaware and Columbia Rivers provide good examples of the Corps’ inability to police itself. Both of these projects were independently examined and found not to be economically justified by a wide margin.¹⁵

The Government Accountability Office review of Delaware Deepening project found “miscalculations, invalid assumptions, and the use of significantly outdated information” estimating that the projects annualized benefits were \$13.3 million and the annualized costs \$40.1 million – roughly 33 cents return for each taxpayer dollar invested.¹⁶ After the scathing GAO report, the Corps hired a contractor that had close dealings with the Corps to conduct the review. The reviewer and the Corps missed or ignored some of the

⁹ *Ibid.* p 7.

¹⁰ *Ibid.* p 6.

¹¹ *Ibid.*

¹² Chief of Engineers Report, Upper Mississippi-Illinois Waterway System. 15 December 2005.

¹³ H.R. 2864 and S. 728, 109th Congress.

¹⁴ John P. Woodley, Assistant Secretary of the Army (Civil Works) January 17, 2006 letter to Joshua Bolten, Director, Office of Management and Budget. Also, several National Academy of Sciences reviews of the project.

¹⁵ The Government Accountability Office (GAO) reviewed the Delaware Deepening project (GAO-02-604). The Oregonian newspaper did its own analysis of the project.

¹⁶ General Accounting Office (now Government Accountability Office), “Delaware Deepening Project” Rep. No. GAO-02-604. June 2002.

project's failures. To get over the economic bar, the Corps inflated benefits and shaved costs – the Corps now estimates the project will return \$1.13 for every tax dollar invested.¹⁷ Even with the inflated benefit-cost ratio, it is still a terrible investment.

The *Oregonian* newspaper found that the Columbia River Deepening project would return no more than 88 cents for each dollar invested. The Corps-created review panel for the Columbia found serious shortcomings in the Corps analysis – such as lack of a multi-port analysis, inappropriate inclusion of traffic diverted from other ports, and improper method of inflating benefits. One outrageous example pointed out by the review panel, and ignored by the Corps, dealt with vessel draft. In all cases the Corps determined that by deepening the channel by three feet, vessels would automatically come in with a 3 foot deeper draft. While that might be justified for those that were coming in near maximum channel depth before the deepening, the Corps included vessels that were coming in no where near the maximum draft. It is not realistic that simply because the channel was deeper that shippers would take advantage of it when they could have already sailed in deeper before and didn't.

In both of these cases, the Corps ignored serious economic shortcomings in the projects, declared victory, and moved ahead with them. The important message here is that the Corps is utterly incapable of reviewing itself.

What is happening in our planning and design process that is enabling the Corps and Congress to develop projects that fail to meet true national needs? Part of the blame lays with the rules that govern project selection, the Principles and Guidelines (P&G). More than 20 years ago these rules were a significant advance in the concept of analyzing project benefit and costs, developing projects with national benefits, and establishing some objectivity in an inherently political process. But times have changed, and the rules have not. In their 2004 report, the National Academy of Sciences remarked, “it has been over 20 years since the P&G has been updated and revised. The P&G planning process is part of a federal water resources decision making environment in which the product has become adherence to process, rather than sound projects and operations plans that serve contemporary needs.”¹⁸

As projects churn through the flawed development process they end up in heap called the backlog. The Corps has a \$58 billion backlog of authorized projects that have not yet been constructed. The 109th Congress is poised to add at least another \$12 billion to that pile with the proposed Water Resources Development Act. Remember, the Corps gets roughly \$2 billion in construction funding annually. It would take 35 years at current funding levels to pay for all of these projects. To make matters worse, the list is not prioritized. There's nothing to say that a navigation project for Los Angeles Harbor is higher priority than a navigation boondoggle, there's nothing to say that providing adequate flood protection for Sacramento outweighs pumping sand on a beach in front of a millionaires house. The huge backlog and lack of priority setting enables politics to control.

¹⁷ Dr. Robert Stearns. “Strike Three ... The Corps Fails Again to Justify Delaware River Deepening.” July 14, 2003.

¹⁸ National Academy of Science, Panel on Methods and Techniques of Project Analysis. “Analytical Methods and Approaches for Water Resources Project Planning.” 2004. p. 108

As though the Corps did not have enough work, in 2000, senior Corps leadership developed the Program Growth Initiative. This ambitious plan, developed without the involvement of the administration, outlines: growth targets (50% over the next five years); major projects to help get them there (including the Upper Mississippi River locks); impediments to growth (Principles and Guidelines, Cost-sharing); and risks of the strategy (not supporting the administration budget). This business plan to grow the Corps undercut Executive branch authority, made direct and bold assertions about the need to close congressional relationships, and turned the idea that the military works for the civilian leadership right on its head.¹⁹

With all this concentration on new construction, operation and maintenance of the nation's current infrastructure is daunting - 926 harbors; navigation locks and dams at 230 locations; 383 major lakes and reservoirs; and 75 hydropower facilities fall by the wayside.²⁰ Let's face it, nobody cuts a ribbon for maintenance. Although in recent years O&M funding has exceeded the Corps' construction funding, the critical maintenance backlog is enormous. In addition to the normal O&M funding, the Corps estimates the critical maintenance backlog is nearly a billion dollars with additional maintenance needs weighing in at another billion.²¹ A key business principle to maintain what you have before expanding into new venues, but pressure from members of Congress desiring to cut a ribbon for a project in their district and the simple engineer's desire to build overwhelm fiscal prudence.

The Corps' can-do attitude – their motto is *Essayons*, French for “let us try” – and their empire building instincts has enabled Congress to lead them into areas beyond their primary missions of navigation, flood damage reduction, and environmental restoration. The Corps is building an irrigation system in Arkansas. The agency is providing funding to build wastewater treatment and water supply facilities throughout the country with the Environmental Infrastructure program. Since its creation in 1992, it has not received a dime in either President Clinton or President Bush's budget, yet it has grabbed more than \$100 million in appropriations.²² But a prime example of mission creep is that the Corps is involved in building schools, some right here in Washington, DC. In fact, the Corps helped cut the ribbon on the Thomson Elementary School in Northwest DC this year. Building and renovating schools is a laudable job, but should not be a priority of the nation's premier water resources agency.²³

Where does this symbiotic Corps-Congress relationship, lack of priorities, project driven mindset leave us. Well, as much as some want to dismiss this an irrelevant discussion about a \$5 billion agency when the country is facing annual budget deficits exceeding \$300 billion, there is a significant cost here. President Bush has frequently criticized the pre-9/11 mindset – well those making the “much ado about nothing” argument are suffering from a pre-Katrina mindset. Clearly the greatest natural disaster this country has

¹⁹ Program Growth Initiative. Slides available at Taxpayers for Common Sense.

²⁰ President's FY2004 Civil Works Budget for the U.S. Army Corps of Engineers.

²¹ See http://www.usace.army.mil/civilworks/hot_topics/aging_infrastructure.htm

²² National Wildlife Federation and Taxpayers for Common Sense. “Crossroads: Congress, the Corps of Engineers and the Future of America's Water Resources.” March 2004. p. 65.

²³ Information on U.S. Army Corps of Engineers work on D.C. Public Schools is available at <http://www.nab.usace.army.mil/projects/WashingtonDC/DCPS/dcps.htm>

faced in recent memory, with more than a 1,000 lives lost and the total cost exceeding \$100 billion, Katrina should help to fundamentally alter our country's approach to water resources if we are to avoid this devastation in the future.

Katrina exposed many flaws in national water resources policy. First, the lack of prioritization of precious federal funding dollars has allowed resources to be diverted to wasteful Corps projects. After Katrina hit and the levees failed in New Orleans, many said we did not spend enough money – no we did not spend enough money wisely. Louisiana took home \$1.9 billion in Corps funding in the five fiscal years preceding Katrina. That was more than any other state; California came in a distant second at less than \$1.4 billion.²⁴ We had the money; it went to the wrong things – like the J. Bennett Johnston Waterway, formerly known as the Red River, but since renamed after its political patron, Sen. Johnston from Louisiana. Another beneficiary of the largesse was a new lock on the Industrial Canal in New Orleans. TCS named this \$750 million project the 5th most wasteful Corps project in the country, but the Louisiana delegation was able to steer millions to it in recent years.²⁵ Levees on the very same Industrial canal failed, inundating the Lower Ninth Ward. In retrospect, lock or levees, I hope our priorities would be different today.

I mentioned the levees failing. The Corps, the National Academy of Sciences, and the American Society of Civil Engineers are all conducting studies on why the levees and floodwalls failed. None of the studies are completed yet, but the preliminary results are terrifying. It appears there were design and construction issues that led to the failures – this from the Corps, which was once regarded the premier engineering “firm” in the country. I can think of no better reason for independent review of costly, controversial, or critical projects. The stakes are too high, we must be sure.

Finally, our policies and programs have encouraged high-risk development. FEMA's flood insurance and disaster relief programs have certainly been a factor, but the Corps flood damage reduction projects have also created a false sense of confidence and driven development in higher risk areas. A levee built to protect soybeans can end up growing subdivisions. Since the 1920s, the federal government has spent more than \$123 billion on flood damage reduction projects. During that same period, average annual flood damages have trebled to \$6 billion (not even including Katrina-related costs).²⁶ In short, we are able to stop the smaller and medium events, but large events overwhelm our system and inundate those that have moved in behind our levees and floodwalls. The nation's flood damage reduction program must be reoriented so that as much as possible, we move people and critical infrastructure out of harms way. For densely populated areas in the floodplain or critical infrastructure that cannot be moved, we must provide the highest level of protection.

In closing, to rein in this culture of waste in both the Corps and the Congress, strong new measures must be enacted. This includes earmark & lobbying transparency and reform

²⁴ Summary of the Energy and Water Corps of Engineers appropriations for Louisiana and California between FY01 and FY05. The funding in the GI, CG, O&M and MR&T accounts were the ones tallied.

²⁵ National Wildlife Federation and Taxpayers for Common Sense. “Crossroads: Congress, the Corps of Engineers and the Future of America's Water Resources.” March 2004. p. 56.

²⁶ *Ibid.* p. 20.

legislation currently be considered. It also means modernizing the Corps by establishing independent review, developing a prioritization system, and updating the Principles & Guidelines to adopt modern economic methods and a more inclusive and robust model for determining project recommendations. The earmark method of developing the Corps budget project by project must be ended. The administration took a step in the right direction by aggregating O&M funding on a watershed basis in their most recent budget.

TCS agrees with the National Academy of Sciences, which pointed out, “[t]he Principles and Guidelines should be revised to better reflect contemporary management paradigms, analytical methods, legislative directives, and social, economic, and political realities. The new planning guidance should apply to water resources implementation studies and similar evaluations carried out by all federal agencies. A revised version of the P&G document should be periodically and formally reviewed and updated.”²⁷ Clearly, the P&Gs need to be revised to consider new factors in the benefit-cost analysis, economic methodology should be updated and the civil works program should be reoriented toward fewer and less structural projects.

The Corps is a savvy agency, when they have been buffeted by criticism they are quick to come up with new plans. The latest is the 2012 plan. Marketed as a decentralized planning initiative, this program will effectively remove any last vestiges of national oversight for the civil works program. So after all the criticism of the District and Division drive for more projects to justify the budget, the 2012 plan will put them in the driver’s seat.²⁸ Centers of excellence and some decentralization has merit, but the 2012 plan doesn’t sound like reform to me. It will do nothing to establish priorities, it will not break the iron triangle of pork barrel water projects.

We are caught in a cycle of waste. It is up to Congress to own up to its responsibility as our elected representatives to rein the Corps and the excesses of their fellow lawmakers. Taxpayers for Common Sense stands ready to help you accomplish this. There is abundant justification to take action now and there are a lot of legislative ideas out there. We thank you for holding this hearing and hope that we can work together to bring the Corps of Engineers into the 21st century and meet our country’s pressing water resource needs in a fiscally responsible manner.

²⁷ National Academy of Science, Panel on Methods and Techniques of Project Analysis. “Analytical Methods and Approaches for Water Resources Project Planning.” 2004. p. 108 and Report Recommendation 3.

²⁸ *USACE 2012*